IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3239 OF 2004

Pandurang Krishna Patil. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
....
Mr. S. D. Dharmadhikari for the Petitioner.
Mr. V.P. Malvankar, AGP for Respondent Nos.1, 2 and 4.
Mr. A.M. Joshi for Respondent Nos.5 to 8.
.....
CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

April 4, 2006.

P.C. (Per Dr. D.Y. Chandrachud, J.):

By these proceedings under Article 226 of the Constitution, the Petitioner inter alia seeks a direction to the effect that he should be placed above the Seventh and Eighth Respondents in the Gradation List; the setting aside of the promotion of the Seventh Respondent as a Supervisor and a further direction to promote the Petitioner in his place. The Petitioner has sought placement in the trained Graduate Teachers' Scale with effect from 19th June 1981 and fixation of his seniority in category “C” of Schedule-F read with Rule 12 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. Arrears of pay have been sought.

2. An affidavit in reply has been filed in these proceedings by the Deputy Education Officer in which it has been stated that the Petitioner has been placed in the Graduate Scale with effect from 9th November 1981 taking into consideration his qualifications of B.A. and D.Ed. as on that date, in the 25% trained graduate's quota for Standards 5 to 7. It has been submitted that the Petitioner could not have been placed in category “C” of Schedule-F of the MEPS Rules, 1981 either with effect from 19th June 1981 or for that matter on 9th November 1981 since he did not possess the required qualifications. The Petitioner was placed in category “D” until he acquired the B.P. Ed. qualification.

3. Now, the facts which are admitted demonstrate that the Petitioner who was originally appointed on 15th November 1978 obtained his SSC in 1976 and D.Ed. in 1978. In 1981, the Petitioner completed his B.A. and it was in 1984 that he thereafter completed his B.P. Ed. In so far as the Seventh Respondent is concerned, he had completed his B.A. in 1978 and B.Ed. in 1981. The Eighth Respondent had completed his B.A. in 1980 and B.Ed. in 1982. In other words, it is clear that the Seventh and Eighth

Respondents had completed both their B.A. and B.Ed. prior to the Petitioner. Hence, the Seventh and Eighth Respondents were entitled to be placed in category “C” of Schedule-F and were accordingly placed in that category prior to the Petitioner. The Petitioner completed his B.P. Ed. only in the year 1984. the categories in Schedule-F represent a ladder of seniority and Category “C” thereof is as follows :

> “Category C : Holders of -
>
> M.A./M.Sc./M.Com., B.T./B.Ed., or its equivalent; or
>
> B.A. B.T./B.Sc./B.Com., B.T./B.Ed., or its equivalent; or
>
> B.A./B.Sc./B.Com., Dip.T. (old two years course); or
>
> B.A./B.Sc./B.Com., S.T.C./Dip.Ed./Dip.T. (one year course) with 10 years post S.T.C. etc. service.
>
> [B.A. or its equivalent plus Senior Hindi Shikshak Sanad with five years service; or Junior Hindi Shikshak with ten years service after obtaining both academic and training qualifications.]”

Under Category “C” of Schedule-F, the Petitioner who at the material time held a B.A. and D.Ed. qualification would have been entitled to inclusion in Category “C” only after 10 years of service or

upon acquiring the B.Ed. or an equivalent qualification. The Petitioner acquired the B.P.Ed. qualification in 1984, therefore, met the requirement of category “C” only thereafter. In view of the aforesaid facts, the grievance of the Petitioner in regard to the Seniority of the Seventh and Eighth Respondents is without any merit. We do not find any reason to exercise our jurisdiction under Article 226 of the Constitution. The Petition is accordingly dismissed.

CHIEF JUSTICE

Dr.D. Y. Chandrachud, J.